IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10389 of 2001
To
SPECIAL CIVIL APPLICATION No. 10431 of 2001

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MEDICAL SUPERINTENDENT & 1 - Petitioner(s)

Versus

GUNVANTRAI VITTHALBHAI JANI - Respondent(s)

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Appearance :
MR I.M. PANDYA, AGP, for Petitioner(s) : 1 - 2.
RULE SERVED for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 19/12/2005

ORAL JUDGMENT

1. These petitions are directed against the award passed by the Labour Court, Jamnagar in applications under section 33(c)(2) of the Industrial

Dispute Act, whereby the Labour Court has allowed those applications.

2. The short facts of the case are that the respondents herein are employees of the petitioner Nobel Dectetive and Securities Pvt. Ltd. The said Agency has provided security services to the petitioner. The respondents, after completion of some years in service, filed applications under section 33(c)(2) of the Act for recovery of the dues under Minimum Wages Act. The Labour Court, Jamnagar, allowed those applications and directed the petitioner jointly to pay minimum wages as per their applications.

3. Learned counsel for the petitioner has submitted that the issue which has been raised by the respondents was under the Payment of Wages Act and Minimum Wages Act and unless there is an adjudication by the competent authority, such applications could not have been entertained. The other contention raised is that the petitioner being an educational institution, provisions of industrial dispute will not be applicable.

4. These matters were on board on 9th December 2005 and the matters were adjourned to today. Though served, none appeared for the respondents. Since the matters are very old, the same are taken up for hearing.

5. Heard the learned counsel for the petitioner and perused the relevant

documents. It is a settled position in law that proceedings under section 33(c)(2) are of execution proceedings in nature, and therefore the Labour Court cannot adjudicate and ascertain the rights of the parties in such proceedings. Unless the rights of the parties for payment are established, the Labour Court ought not to have passed the impugned orders. On this ground alone the impugned orders are required to be quashed and set aside. In that view of the matter the other question whether the provisions of the Act are not attracted to the petitioner institution is not decided.

6. It is clarified that it will be open to the respondents to adjudicate and ascertain their rights before appropriate authority.

7. In the premises aforesaid, the impugned orders are quashed and set aside. Rule is made absolute accordingly with no order as to costs.

[K.S. JHAVERI, J.]

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